

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

March 31, 1999

Dear Xxxxx:

This letter is in response to your letter dated February 16, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am writing to request a ruling concerning the exempt status of the following product. Our previous requests sent to 100 W Randolph have gone unanswered. A standard flux is used as a cleaning agent and is normally not tax exempt since it does not actually become a physical component of the end product.

COMPANY a welding manufacturer, has taken the position that 'Sub-Arc Flux' is an alloying agent. It contains metals that permanently bond and become part of the weldment. Since sub-arc flux becomes a part of the weldment COMPANY contends it should be classified as a nontaxable item.

Literature supporting this claim is attached, as well as your ruling on standard flux dating back to 8/1/1988 a copy of my original letter dated 11/24/98 and my second request letter dated 1/20/99. Please research this application of use & supply us with a ruling as soon as possible.

We apologize for the delay in our response. We did not receive your original requests. The Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq. (1996 State Bar Edition), imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The basic State rate of tax under the Retailers' Occupation Tax Act is 6.25% plus applicable local taxes.

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily

(over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the enclosed copy of 86 Ill. Adm. Code 130.330. The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining that changes some existing material or materials into a material with a different form, use, or name. These changes must result from the process in question and be substantial and significant. The manufacturing machinery and equipment exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

As you can see from the regulation, hand tools do not qualify for the exemption afforded manufacturing machinery and equipment. Hand tools include, but are not limited to, wrenches, pliers, hammers, chisels, sanding blocks, and screwdrivers. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling qualify for the exemption. Please note that the exemption does not extend to supplies. Consumable supplies used in a process are subject to tax. For example, welding flux is considered to be a consumable manufacturing supply and is fully taxable. However, to the extent that flux physically becomes a part of the product being manufactured for sale, it can be purchased for resale.

In addition to the exemption for manufacturing machinery and equipment, the State of Illinois provides a manufacturer's purchase credit (MPC) on the purchase of tangible personal property that qualifies for the manufacturing machinery and equipment exemption. 35 ILCS 105/3-85; 35 ILCS 110/3-70. The credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. Effective June 30, 1995, the reporting requirements were changed to an annual reporting method instead of the monthly method required for MPC earned and used prior to that date. See Public Act 89-89.

Supplies and consumables, such as die lube, coolants, and hydraulic fluid used in or on aluminum and zinc die casting machines along with flux used to purify molten aluminum, can qualify as production related tangible personal property. Manufacturers who have earned MPC on the purchase of qualifying manufacturing machinery and equipment can use that MPC to satisfy their Use Tax or Service Use Tax liability on the purchase of production related tangible personal property. Please note that the amount of MPC that can be applied to a purchase of production related tangible personal property is limited to the state rate of tax incurred on that property (6.25%). Any local taxes incurred on the purchase of production related tangible personal property remain the responsibility of the purchaser.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

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If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.